

MONTANA LEGAL SERVICES ASSOCIATION

Report for the Committee on State Planning

A. Brief Description of State Planning Process

Montana Legal Services Association (MLSA) submits this Report in response to the actions required by Program Letter 98-1. Following the receipt of the Program Letter, MLSA invited various leaders of civic, client and community-based organizations to participate in the review process. Committee members with knowledge of the existing legal needs of low income people in Montana were selected as participants on the Committee. The State Planning members invited to participate are as follows:

Mr. George Bousliman
Executive Director
State Bar of Montana
46 North Last Chance Gulch
Helena, MT 59601

Mr. Matthew Dale
Executive Director
Friendship Center
1503 Gallatin Ave.
Helena, MT 59601

Ms. Shirley Brown
Chief Program Manager
DPHHS - Prgm Mgt Bureau
1400 Broadway Room C108
Helena, MT 59620

Mr. Mike McGrath
County Attorney
Lewis & Clark County
316 N. Park
Helena, MT 59601

Sen. Mignon Waterman
Montana State Senator
530 Hazelgreen
Helena, MT 59601

Mr. Chris Tweeten
Deputy Attorney General
Office of the Attorney General
P O Box 201401
Helena, MT 59620-1401

Ms. Judy Williams
Pro Bono Project
2442 1st Ave. North
Billings, MT 59101

Mr. Russ LaVigne or
Ms. Vivian Marie
Attorneys at Law
People's Law Center
P O Box 511
Butte, MT 59703

Hon. John W. Larson
District Court Judge
Missoula County Courthouse
200 West Broadway
Missoula, MT 59802

The MLSA State Committee members met on three separate occasions in the past several months. The goal of the Committee was to review the resources available to low

income people in Montana and to assess the ability of those resources to meet the legal needs of Montana's low income population. Participants were provided with resource material, financial information and demographic data about Montana's poor. MLSA Executive Director and Deputy Director met with the Committee to serve as consultants in the review process and to provide answers to Committee Members questions.

FINDINGS

The Committee considered the issues posed in Program Letter 98-1 and made these Findings

1. INTAKE, ADVICE AND REFERRAL:

Overview: The Committee discovered that, while other low income legal assistance providers do offer a limited range of legal services to Montana low income populations, MLSA is the only statewide provider of that service, providing the full range of services to eligible clients. People's Law Center (PLC), for example, helps Social security Disability claimants appeal benefit denials and charges attorney fees for services; those fees are then used to provide additional services. While PLC does offer services statewide without charge on welfare reform issues, it does not, however, offer its services statewide in all other areas.

MLSA employs two basic delivery service mechanisms: telephone hotline advice and direct representation. The Hotline delivery method was initiated by MLSA in 1996 in one MLSA location. In 1997, MLSA began serving the entire state from two field office

locations. These two field offices serve the clients within each respective telephone “LATA,” [Local Access and Transport Area] as a cost saving measure.

Callers are screened by hotline staff, either a trained paralegal or attorney, and, if eligible, are provided with the information and advice needed to resolve the problem. If the issue presented requires active representation, the caller is “referred” to the local field office for further action, as the field office deems necessary. Depending upon field office resources, the field office may accept the case for active representation or engage in further research or advocacy, as appropriate.

Both hotline staff and field office staff are familiar with all local and statewide service providers who may be able to provide assistance to the caller. When direct representation of the client is initiated, the field office provides the full range of legal services as the case warrants.

The MLSA Board of Trustees has expressed its preference to maintain a presence in as many physical locations throughout the state as possible. The Board believes this provides some deterrent to those who might take advantage of low income people. To accomplish this objective, three attorneys operate in their offices without support staff, using advanced technology.

STRENGTHS:

- rapid response; little or no waiting, depending on calling time
- access to experienced attorneys through hotline staff and backup at local offices to answer many types of legal questions
- efficient, low-cost delivery of precious resources

WEAKNESSES

- provides only “band-aid” approach in some areas: “ask a nurse when a doctor is needed”
- Hotline is an impersonal method of delivering of services to clients; it may even deter some potential clients from seeking service.
- The isolation of attorneys working alone and without support staff is an undesirable, inefficient and difficult mode of operation.

2. TECHNOLOGY:

Committee Members learned that MLSA has already approached technological improvements with a vision toward greater client services. MLSA has taken the initiative within the last two years to investigate the implementation of a hotline intake system. After considerable study, MLSA began a regional (two locations) hotline in 1997 and continued developing the process of telephonic intake and continued work on the system in 1998. Now, the two hotlines serve the entire state, with local offices supplementing as needed.

In 1998, MLSA finally obtained two Feature Group A telephone lines – essentially wholesale rate lines used for returning long distance calls from hotline locations. These lines offer MLSA wholesale rates at a significant reduction over regular or even discount long-distance call rates.

MLSA has found that using hotlines to serve incoming callers frees both attorney and support staff to do other work requiring more intensive lawyer attention. Hotline staff effectively and efficiently handle a high volume of calls which would otherwise consume

an inordinate amount support staff and attorney staff resources. MLSA is now examining methods to improve and expand hotline service delivery opportunities. MLSA is currently in the process of creating a client survey for polling clients served by the hotline to determine client satisfaction with hotline services.

MLSA has already made a major commitment to upgrading its ability to use technology effectively. In early 1996, MLSA purchased desktop Pentium-based computers for every attorney, support staff and paralegal. The primary objective of this development plan was to enable MLSA to use a Windows platform database for client record keeping. Now MLSA uses Client for Windows, a John Kemp-designed database used throughout all MLSA offices. Field offices, the two hotline locations and the central administrative office all use Clients for Windows as the sole database for all client intake and record keeping. Case handlers are able to maintain client documents, correspondence and time keeping records all on the same system.

Computers are networked within offices in those field offices with more than one staff member. This allows the quick transfer of files between casehandlers and rapid access to conflict information, both within each office and within the program. All offices are equipped with plain paper fax machine for distribution of information between offices, the courts and members of the profession

At the same time that MLSA made the commitment toward the single database program, MLSA purchased WordPerfect 7 or higher for use throughout the program. In Montana, WordPerfect still seems to be the wordprocessor of choice in the legal profession. Three MLSA field offices have access to WestLaw and serve as the research arm for those

offices seeking computer assisted legal research information. Several offices are able to gain access to the Internet for obtaining information from LSC, Handsnet, PAG and similar resources.

During the tenure of the Committee, MLSA was awarded a special one-time grant from the Montana Public Service Commission to augment existing telephone services to meet the needs of Montana's low income population. MLSA will use the grant to provide automated telephone answering devices for handling routine and recurring frequently asked questions. Callers will be able to obtain routine legal information at all hours with push-button ease, once the system is operational. This new telephone system technology may enable MLSA to determine source and a general categories of problems callers face.

MLSA will need to do effective advance planning and budgeting in order to stay ahead of the technology curve. Technology improvements MLSA has now made will be most helpful in the future planning.

STRENGTHS:

- MLSA appears to be at least even with other legal service providers in the use of technology;
 - MLSA demonstrates no reluctance to embrace new technology to enhance client services;
 - The single database on Clients for Windows, on Pentium-based computers, using WordPerfect 7, is an efficient and effective use of MLSA resources;
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WEAKNESSES

- the cost of upkeep in maintaining a technological edge may prove to be a problem to MLSA unless future funding prospects improve
- telephone answering devices, while efficient, may deter some callers from seeking legal assistance
- the “learning curve” for staff is steep, especially with inadequate support from the software developers

3. ACCESS TO THE COURTS, SELF-HELP AND PREVENTIVE EDUCATION:

The Committee learned that the greatest barrier to access to justice in Montana is the lack of lawyers to handle all the requests for service. In the short term, no concrete viable solutions exist for improving attorney to client ratios. MLSA staff has been reduced by nearly 50% statewide. Other opportunities, such as the new nonprofit People’s Law Center, Appleseed, the Montana Advocacy Project and similar entities provide some additional services, especially in areas prohibited to MLSA by regulations. However, those resources are limited at best.

MLSA’s Hotlines are significant factors in expanding access to the courts, providing legal advice and education and enhancing self-help opportunities. In rural Montana, hotlines may be the only way in which services can be delivered in a cost effective, efficient and meaningful way. Even in cities where MLSA has a presence, hotlines enable field office staff to devote resources to direct representation and advocacy. The State Planning

Committee learned that MLSA is pursuing senior citizen and domestic violence assistant grants to expand hotline services.

The State Bar has hired a *pro bono* Coordinator to assist in promoting *pro bono* efforts throughout the state. The State Bar created a new Access to Justice Committee to engage in new initiatives toward recruitment and retention of *pro bono* lawyers. The Access to Justice Committee's mission is to expand access to the justice system in Montana. MLSA is actively engaged in these *pro bono* activities. (See § 5. Private Attorney Involvement below.)

MLSA works with a number of local bar associations to increase the scope and effectiveness of *pro bono* referrals. The Committee agreed that MLSA should continue to work with the State Bar of Montana to recruit lawyers for *pro bono* activities. Several staff members are State Bar appointees to the Access to Justice Committee. Several new initiatives involving the significant cooperation between local district court judges and MLSA field offices have just been launched. The process should expand the panel of available referrals (See Use of Private Attorneys, below.)

Currently, new or expanded efforts are underway in Billings, Helena, Missoula, Great Falls, Bozeman, Livingston, Lewiston, Havre, Malta, Miles City and Butte, in conjunction with local *pro bono* committees. MLSA works directly with the State Bar of Montana in the implementation of a statewide *pro bono* plan. Most local bar associations have now adopted some form of the state plan. MLSA continues to assist in the implementation of various *pro bono* activities throughout the service area.

Activities include *pro se* bankruptcy and dissolution clinics; a jointly sponsored, MLSA supported dissolution clinic; a family law advice clinic; a State Law Library advice clinic; an “inverse pyramid” advice clinic; and landlord/tenant clinics. MLSA continues its extensive cooperation with the University of Montana Law School. Students may be used in the hotline program. MLSA uses law student clinical Interns to assist in serving the low income community, mostly in the Missoula services area.

MLSA staff personally solicit private bar attorneys individually and through state and local bar associations. MLSA staff serve on and assist local bar committees in implementing the State Bar of Montana *Pro Bono* Plan and in creating new programs elsewhere.

STRENGTHS:

- MLSA is viewed as an important resource, both by the private bar and the clients being served;
- funding cutbacks have required MLSA to examine, evaluate and implement alternative, cost effective service delivery mechanisms;
- hotlines at least partially fulfill the need to provide greater access to the justice system;
- self-help clinics and materials are an essential part of the statewide service delivery plan;
- self-help efforts throughout the state will enable clients to empower themselves;

- there is a high level of cooperation between the private bar, MLSA, the various *pro bono* clinics, Appleseed, PLC and all other service providers in Montana.

WEAKNESSES

- although valuable, MLSA is nevertheless a scarce resource;
- operating clinics and producing self-help material reduces staff time devoted to direct representation;
- no data is available regarding the effectiveness of preventive education; low income people may not take advantage of education efforts in advance of an imminent legal problem;
- although MLSA is attempting to discern the unmet legal need of the poor, no data is currently available on the unmet legal needs of Montana's low income population, following the latest reductions in funding.

4. COORDINATION OF LEGAL WORK, TRAINING, INFORMATION AND EXPERT ASSISTANCE:

The Committee unanimously voiced the opinion that MLSA was a leader in training, legal work, information exchange and expert assistance on behalf of Montana's low income poor. The Committee believes, in the face of continuing demand for services and shrinking resources, MLSA must exert a leadership role in developing expertise, providing training and disseminating information to the legal community and Montana's low income population. The Committee recognized that MLSA often provides high quality, low cost and sometimes free continuing legal education (CLE) to the private bar. MLSA's expertise in consumer law, family law, appellate procedure and landlord/tenant law is recognized by

the bench and bar. MLSA can continue to fulfill its mission to its clients by continuing to coordinate poverty law resources for all service providers. MLSA lost very experienced staff in the last funding reduction cycle; the experience, dedication and expertise are most difficult to replace at any price.

MLSA should continue to serve as a clearinghouse for information regarding the legal needs of the poor, thought the Committee. How this should be done, with diminished and diminishing resources, it is a constant problem for MLSA.

STRENGTHS:

- Having MLSA as a single source of information for low income legal issues is beneficial;
- MLSA continuing legal education activities have produced quality legal assistance to many low income individuals through resulting *pro bono* efforts;

WEAKNESSES

- providing training, continuing legal education and serving as a clearinghouse reduces staff time devoted to direct representation
- replacement of experienced staff is a major problem, in cost, services to be provided and in expertise lost.

5. PRIVATE ATTORNEY INVOLVEMENT:

All Committee participants agreed that MLSA has the broad support on the practicing bar in Montana. Lawyers and judges generally have a favorable impression of MLSA's work and its mission within the justice system in Montana. The State Bar has

provided both moral support through its annual resolution in favor of MLSA and financial support, through the Montana Law Foundation's funding grants. Nearly every local bar association in Montana has adopted resolutions favoring MLSA and/or adopted *pro bono* plans of cooperation with local field office programs. The State Bar access to Justice Committee has actively assisted in promotion of *pro bono* programs using local field office resources and enlisting the support of local district court judges. As a result, several field offices have active local *pro bono* referral programs and several others are in the planning stages.

Reductions in MLSA funding have, by necessity, created unique partnerships in the delivery of assistance to low income clients. For example:

- in the Butte area, district court staff assign cases to a resolving panel of all local attorneys, after the initial screening by the Butte field office;
 - in Helena, state-employed lawyers participate in advice sessions held on Saturdays, at the State Law Library, after clients are screened by the Helena office;
 - in Missoula, local attorneys volunteer to provide advice in family law cases in the evening at the local MLSA office;
 - in Billings, private attorneys provide classes to clients screened by MLSA's office; more complicated cases are referred for individual representation under a local *pro bono* plan;
 - in Great Falls, the local office participates in helping the Cascade County Law Clinic which provides *pro bono* lawyers to clients in uncontested family law cases;
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- in Bozeman, local judges are assisting in recruiting *pro bono* lawyers and in making referrals;
- in Livingston, the judge appoints lawyers from the area, with initial screening by the Bozeman MLSA office.

MLSA offers malpractice coverage for any lawyer providing *pro bono* assistance through a local bar-MLSA-sponsored referral plan. *Pro bono* efforts throughout the state have increased awareness of local bar associations and the private bar regarding the need for legal assistance to low income people.

STRENGTHS:

- the partnership between MLSA, the State Bar of Montana and practicing attorneys has been beneficial in providing services to low income Montanans;
- MLSA continuing legal education activities have produced quality legal assistance to many low income individuals through resulting *pro bono* efforts.

WEAKNESSES

- providing training, continuing legal education and serving as a clearinghouse reduces staff time devoted to direct representation;
- *pro bono* involvement still does not produce as much client service as is needed to meet low income people's needs.

5. RESOURCE DEVELOPMENT:

Financial resources presently available include LSC funding, a small contract with the state of Montana to represent disability claimants, and IOLTA funds from the Montana

Law Foundation. MLSA is pursuing grants for a senior citizen hotline and for services to victims of domestic violence. The Public Service Commission has awarded MLSA a one-time grant for technology hardware. Some of the *pro bono* projects in which MLSA is involved may receive funds to replicate themselves elsewhere. A time limited fund-raising effort by the private bar to match a NAPIL grant has yielded little but will continue. MLSA plans to reintroduce filing fee legislation in January of 1999, once again with State Bar help; success of this effort is most speculative. MLSA will approach private donors and foundations for victim assistant grants in domestic violence situations and for children's issues. The most promising idea developed is joint funding with a shelter or the social service provider as the lead grant application agency. This concept recognizes the current emphasis on cooperative proposals and should generate more support from other providers.

STRENGTHS:

- MLSA has maximized the effective use of present resources;
 - MLSA has sought other funding opportunities wherever available;
 - good stewardship of personnel and financial resources has helped MLSA to explore alternative delivery mechanisms such as hotline systems and *pro bono* activities;
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WEAKNESSES

- resources have been stretched to the absolute maximum, including the no-support-staff offices; lack of financial resources is the major weakness facing MLSA in the next several years;
- Board development may need to include a fund-raising component, although such activity has not normally been done by an MLSA Board.

CONCLUSIONS

The Committee felt strongly that the legal needs of low income Montanans have been well served by MLSA for over thirty years. Literally thousands of clients have received representation and legal advice from MLSA staff. The greatest challenge to meeting the needs of Montana's low income population in the future will be in maintaining a funding level consistent with the costs of providing those services.

Clearly, the ability of MLSA to meet those needs in the future is inextricably tied to funding. MLSA manages its resource very well, especially considering the numbers of low income people with the service area. On the other hand, there are only so many ways to stretch limited resources. New financial resources are critical to fulfilling MLSA's mission in the future. The Committee encouraged MLSA to pursue future funding opportunities wherever possible and available. In the interim, the Committee applauds the efforts MLSA staff has made to preserve access to justice for Montana's low income people.